

10/28/08

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**City of Santa Clara  
PLANNING COMMISSION  
Wednesday, October 8, 2008  
7:00 P.M.  
CITY COUNCIL CHAMBERS  
MINUTES**

Please refer to the Planning Commission Procedural Items coversheet for information on all procedural matters.

**REGULAR ITEMS – 7:10 p.m.**

**1. PLEDGE OF ALLEGIANCE and INVOCATION**

Chairperson Fitch initiated the Pledge of Allegiance, and the Invocation was read.

**2. ROLL CALL**

The following Commissioners responded to roll call: Chairperson Todd Fitch, Vice-Chairperson Teresa O'Neill, Commissioners Tony Marine, Keith Stattenfield, Frank Barcells and Robert Mayer. Commissioner Champeny was excused.

Staff present were Director of Planning and Inspection Kevin Riley, City Planner Carol Anne Painter, Development Review Officer Gloria Sciara, City Attorney Helene Leichter, Civil Engineer II Darrell Mackie and Office Specialist IV Susan Landers.

**3. DISTRIBUTION OF AGENDA AND STAFF REPORTS**

Chairperson Fitch said that copies of current agendas and staff reports for each of the items on the agenda are available from the Planning Division Office on the Friday afternoon preceding the meeting and are available at the Commission meeting at the time of the hearing.

**4. DECLARATION OF COMMISSION PROCEDURES**

Chairperson Fitch reviewed Planning Commission procedures for those present.

**5. REQUESTS FOR EXCEPTIONS, WITHDRAWALS AND CONTINUANCES**

- A) Withdrawals – None
- B) Continuances without a hearing - None
- C) Exceptions (requests for agenda items to be taken out of order) - None

**6. ITEMS FOR COUNCIL ACTION**

The following items from this Planning Commission agenda are recommendations to the City Council and will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items may be heard concurrently with or subsequent to the Council review of these minutes. Please contact the Planning Division office for information on the schedule of hearings for these items:  
Agenda Item #8.C.      File: PLN2008-07285 Location: 2250 El Camino Real

**7. ORAL PETITIONS/ ANNOUNCEMENTS AND COMMUNICATIONS**

- A) None

**8. CONSENT CALENDAR**

The following items were pulled from the Consent Calendar: 8.B. (by Commissioner Mayer), 8.C. (by Commissioner Stattenfield) and 8.D. (by Commissioner Marine). Commissioner Marine made a motion to approve the Consent Calendar, with Item 8.A. only, seconded by Commissioner Stattenfield, and the motion was approved unanimously.

## **Routine Items/Consent Calendar**

### **8.A.** Planning Commission Minutes of September 24, 2008

## **Public Hearing Items/Consent Calendar**

### **8.B.** File: **PLN2008-07270**

Location: 4390 Basset Street. A 4,734 square foot parcel (APN:104-11-094) and is zoned R1-6L (single family residential)

Applicant/Owner: Messier Benitez/Jose Chavez

Request: **Variance** to allow an expansion to an existing non-conforming single family home. Home is non-conforming due to existing street side setback.

Project Planner: Bridgette Carroll, Assistant Planner

#### **Commission Action:**

This item was pulled from the Consent Calendar by Commissioner Mayer for discussion. Applicant Messier Benitez spoke, and Commissioner Mayer asked about the possibility of decreasing the setback from 20 to 15 feet. Following discussion about this issue, the public hearing was closed. Commissioner Marine moved to approve the request, subject to conditions, seconded by Commissioner Barcells. The motion was approved unanimously.

### **8.C.** File: **PLN2008-07285**

Location: 2250 El Camino Real, a 43,000 sq. ft. lot on the south side of El Camino Real, approximately 150 ft. east of Los Padres Blvd. (APN: 290-10-072). Property is zoned PD (Planned Development).

Applicant/Owner: Gregory Malley

Request: **Time Extension** of PD (Planned Development) zoning approval to allow construction of 45 dwelling units as part of a four-story residential development condominium project with podium parking

Project Planner: Debby Fernandez, Associate Planner

#### **Commission Action:**

This item was pulled from the Consent Calendar by Commissioner Stattenfield, who asked whether the concerns in Annette Arbuckle's letter to the Planning Department had been addressed. Ms. Sciara responded they had. Commissioner Stattenfield asked whether time extensions are typically granted, and Ms. Sciara said they are routinely granted for financing, design or other reasons. Applicant Gregory Malley spoke and indicated they had not broken ground yet as they are monitoring the market. Following discussion, the public hearing was closed. Commissioner Marine moved to recommend the item to City Council for approval, subject to conditions. Commissioner Stattenfield seconded the motion, and it was approved unanimously.

### **8.D.** File: **PLN2008-07171**

Location: 2155 El Camino Real, a 1,775 square foot tenant space (DBA: Mr. Chau's Restaurant) located in a shopping center on the north side of El Camino Real between Scott Boulevard and San Tomas Expressway (APN: 224-15-032).

Property is Zoned CC (Community Commercial).

Applicant: Patrick Chau,  
Joseph Padilla, Padilla/Associates

Owner: Meacham

Request: **Use permit** to allow the sales of Beer and Wine in existing restaurant

Project Planner: Julie Moloney, Associate Planner

This item was pulled from the Consent Calendar by Commissioner Marine, who indicated the Use Permit approval should specify that beer and wine sales would only be allowed in association with food service. Following the closing of the public hearing, Commissioner Marine moved to approve

the request, subject to conditions, with the addition of the condition he had recommended, seconded by Commissioner O'Neill. The motion was approved unanimously.

\*\*\*\*\*End of Consent Calendar\*\*\*\*\*

## REZONING

9. File: **PLN2008-06928**  
Location: 4600 Patrick Henry Drive, a 2.86 acre lot, located on the west side of Patrick Henry Drive, approximately 1,100 feet south of Democracy Way (APN 104-04-122). Property is zoned ML (Light Industrial).  
Applicant: Sim Architects, Inc. for Great Exchange Covenant Church  
Owner: 4600 Patrick Henry, LLC  
Request: **Certification of Mitigated Negative Declaration; and Use Permit** to allow the establishment of a church operation and conversion of an approximately 50,000 square foot existing building located in the Light Industrial zone to accommodate a membership of up to 1,600 persons (800 person maximum per service) as part of the phasing and long term growth plan.  
Project Planner: Judith Silva, Associate Planner

### Summary of Discussion

Mr. Riley presented information on the project. He said Great Exchange Covenant Church had submitted a packet of letters in favor of the granting of the Use Permit, and there were about six letters in opposition. He indicated that some of the issues related to the permit request include construction impacts, air quality, exposure of the tenants to potentially hazardous materials, noise impacts and biological impacts such as the effect on nesting birds on the site. He added that some off site parking would be needed to supplement the on site parking and said businesses in the area had expressed concerns about parking spillover. Mr. Riley said that Staff, based on the findings articulated in the Staff report, recommended denial of the Use Permit request.

Chairperson Fitch said the applicant would have fifteen minutes to make a presentation, and then speakers in favor of or opposing the granting of the Use Permit would have one minute each.

Dalan Chan, representing the Church, showed a slide presentation and video and said that the Church would benefit the community with such things as after school programs, programs for at-risk youth and special needs children, global projects, the arts and social justice issues. He opined there would be a minimal effect on traffic. Mr. Chan said there is a large residential area to the west, and there is already an existing church in the area. He also noted the Hetch Hetchy Aqueduct runs through the area, and he believed it would not be located in an area where uses around it would be considered unsafe.

Commissioners asked questions of the applicant and staff. They expressed concerns about the impacts of traffic and parking on businesses in the area. Mr. Chan said the Church had a verbal agreement with Santa Clara Marriott to use extra parking spaces in the Marriott and shuttle people to the Church on Sunday mornings. Church representatives were asked whether they had looked for a location in an area that is zoned to allow church use. David Sass, the Church's broker, said an extensive, unsuccessful search had been made. Commissioner Stattenfield said the proposed Yahoo project is two blocks away from the site, and he wondered if that project would cause a significant increase in traffic and make the present traffic study invalid. Mr. Riley said the rights of the present property owners need to be supported, and parking is a concern. Commissioner Stattenfield asked Mr. Chan if he could estimate the number of people per vehicle who would be traveling to the Church. Mr. Chan gave an estimate of about three persons per vehicle. He noted that the Church has a crew that would monitor parking. Commissioner Marine indicated concern about "sensitive receptors," or children and elderly persons, who would be present in a zone where the use of hazardous materials is allowed. Mr. Chan said they understood precautions would have to be taken and that they would provide for safety. Commissioner Stattenfield asked whether a

condition could be imposed with regard to the number of parking spaces required. Attorney Leichter said the City Council could impose conditions on assembly uses.

Chairperson Fitch opened the public hearing. Approximately thirty-seven people spoke in favor of the Use Permit for the Church, and approximately seven people spoke against granting the Permit.

The speakers in favor noted such reasons as: the number of empty buildings in the area and the opinion that light industrial uses are not growing in the area; the value of the Church's children's programs, the 200 plus letters of support from church members; the investment in the community of Church members who live and work in Santa Clara; the diligence the Church would take with regard to safety provisions; the proximity to a residential area, which also includes sensitive receptors; the participation of Church members in City activities; the desire of Church members to get along with neighbors and make the use work; and the Church's programs help prevent delinquency and criminal behavior. The Project proponents also claimed that the Church's presence would add to the peace, safety and welfare of the area; other suitable property in Santa Clara for church use is nonexistent; the Church's members are committed to the Church; and the Church gives value to the community.

Speakers in opposition to the granting of the permits noted such reasons as: Church users could be exposed to hazards; there is a parking shortage; commerce in the area would be reduced; if campuses in the industrial park area are lost, there is no place for businesses such as Yahoo to go; the Church use would be detrimental to businesses in the area; parking, ingress and egress are huge issues; and the needs of the industrial park users in this location must be met. Speakers indicated that assembly uses have overgrown and caused problems for neighboring businesses such as parking, trash and loitering; when business is "up," the area can be very busy, and churches have a lot of overflow.

The public hearing was closed, and there was discussion by the Commission. Mr. Riley was asked about any requirements related to the Hetch Hetchy underground pipeline, and he said there cannot be buildings on it, but there can be a parking lot. Ms. Leichter said Santa Clara provides an easement to San Francisco for the pipeline, which is very deep. There can't be any use that would interfere with the pipeline. Commissioner O'Neill asked Mr. Chan whether there was a plan for safety. He responded that one similar to the Silicon Valley Church had been drafted, and they would get a consultant and confer with the Fire Department. There was discussion about the amount of parking space needed. Commissioner Marine said that with up to 1600 people, 300+ parking spaces would be needed, which are just not there, and he questioned the traffic study's conclusion that parking would have a "less than significant impact." Ms. Painter noted that the environment analysis was done for 1 space per 6 seats but would have to be revised to 1 space per 3 seats. She also indicated there would have to be an agreement between the Church and any businesses proposing to donate parking spaces for the Church's use and noted that only excess parking on the donor's site could be allocated for the Church use. Commissioner Marine indicated he was uncomfortable with the study's conclusion that there would be a "less than significant impact on sensitive receptors." Mr. Marine made a motion for Staff to review the Mitigated Negative Declaration and come back with a revised parking and traffic study and clarification of the impacts on sensitive receptors. Commissioner O'Neill seconded the motion.

Santa Clara Fire Department Hazardous Materials Administrator Dave Parker was asked to comment. Mr. Parker provided some history on a similar use request that had been approved by the City Council thirteen years ago. He said Staff was tasked with coming up with mitigation; the program used includes testing the five to six most likely gases near air intakes, with a system that can be shut down and an alarm that will sound for dangerous levels. In addition, there would have to be plans to train Church staff, including drills. Dr. Parker said this would reduce hazards but not eliminate them. The issue is not only the uses that are there now, but the uses that could be there in the future that would have to be taken into consideration. Commissioners asked about the H designation for businesses with hazardous materials above Fire Department thresholds. According to Recommended Condition of Approval 25, H occupancies are not allowed within 1,000 feet of A

(Assembly) occupancies. Mr. Riley stated that businesses with H occupancy would have the right to enter into this zone and that the Shelter in Place mitigation measure in the Mitigated Negative Declaration was intended to address this potential.

### Commission Action

Mr. Marine amended his motion as follows, "Continue up to 90 days to refer back to Staff to investigate the issues the Commission raised with regard to the Mitigated Negative Declaration, with parking, traffic and the Shelter in Place Plan. Commissioner O'Neill, who had seconded, agreed to the amended motion. The motion passed unanimously.

Following a 3 minute break, the meeting continued.

## OTHER BUSINESS

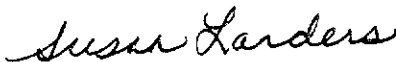
### 10. Commission Procedures and Staff Communications

- i. Announcements/Other Items - None
- ii. Report of the Director of Planning and Inspection
  - City Council Actions – Ms. Painter reported on the September 30<sup>th</sup> meeting.
  - Commission/Board Liaison and Committee Report - None
  - Commission/Committee Assignments - Assignments are reflected in the next three bulletpoint items.
  - Architectural Committee: Commissioners Stattenfield and Mayer (Barcells alternate)
  - Station Area Plan: Commissioner Champeny
  - General Plan sub-Committee: Commissioners Fitch and O'Neill (Champeny alternate)
- iii. Commission Procedures
  - Planning Procedures – Mr. Kevin Park suggested that the Planning Department respond in writing to all letters and phone calls. Ms. Painter said Staff members respond to citizens, and responses are reflected in Staff reports, but it would not be feasible with available staffing to send written responses to all communications received. She said if a letter is attached to a staff report in the future, information on the response will be noted in the staff report.
  - Work plan items
  - Commissioner Travel and Training reports
- iv. Upcoming agenda items

### 11. ADJOURNMENT

The meeting was adjourned at 11:20 p.m.

Respectfully submitted:

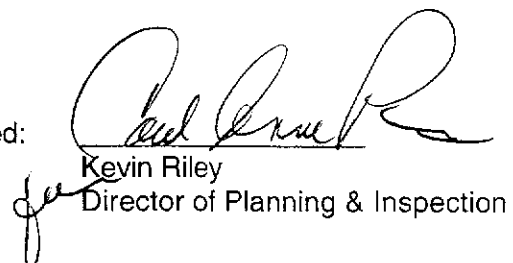


Susan Landers  
Office Specialist IV

Approved: \_\_\_\_\_

Gloria Sciara, AICP  
Development Review Officer

Approved: \_\_\_\_\_



Kevin Riley  
Director of Planning & Inspection



**City of Santa Clara  
PLANNING COMMISSION  
Wednesday, October 8, 2008  
7:00 P.M.  
CITY COUNCIL CHAMBERS  
SUMMARY OF ACTIONS**

Please refer to the Planning Commission Procedural Items coversheet  
for information on all procedural matters.

**REGULAR ITEMS – 7:10 p.m.**

**1. PLEDGE OF ALLEGIANCE and INVOCATION**

**2. ROLL CALL** - All Commissioners were present except Commissioner Champeny, who was excused.

**3.**

**4. DISTRIBUTION OF AGENDA AND STAFF REPORTS**

**5. DECLARATION OF COMMISSION PROCEDURES**

**6. REQUESTS FOR EXCEPTIONS, WITHDRAWALS AND CONTINUANCES**

A) Withdrawals – None

B) Continuances without a hearing - None

C) Exceptions (requests for agenda items to be taken out of order) - None

**7. ITEMS FOR COUNCIL ACTION**

The following items from this Planning Commission agenda are recommendations to the City Council and will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items may be heard concurrently with or subsequent to the Council review of these minutes. Please contact the Planning Division office for information on the schedule of hearings for these items:

A. Agenda Item 8.C. File: PLN2008-07285 Location: 2250 El Camino Real

**8. ORAL PETITIONS/ ANNOUNCEMENTS/COMMUNICATIONS/SPECIAL ORDER OF BUSINESS** - None

**9. CONSENT CALENDAR**

The following routine administrative and public hearing items were approved under the Consent Calendar unless otherwise noted.

**Routine Items/Consent Calendar**

**8.A.** Planning Commission Minutes of September 24, 2008 – Approved as submitted.

**Public Hearing Items/Consent Calendar**

**8.B.** File: **PLN2008-07270**

Location: 4390 Basset Street. A 4,734 square foot parcel (APN:104-11-094) and is zoned R1-6L (single family residential)

Applicant/Owner: Messier Benitez/Jose Chavez

Request: **Variance** to allow an expansion to an existing non-conforming single family home. Home is non-conforming due to existing street side setback.

Project Planner: Bridgette Carroll, Assistant Planner  
Action: **Pulled from Consent Calendar by Commissioner Mayer.  
Approved subject to conditions.**

**8.C.** File: **PLN2008-07285**  
Location: 2250 El Camino Real, a 43,000 sq. ft. lot on the south side of El Camino Real, approximately 150 ft. east of Los Padres Blvd. (APN: 290-10-072). Property is zoned PD (Planned Development).  
Applicant/Owner: Gregory Malley  
Request: **Time Extension** of PD (Planned Development) zoning approval to allow construction of 45 dwelling units as part of a four-story residential development condominium project with podium parking  
Project Planner: Debby Fernandez, Associate Planner  
Action: **Pulled from Consent Calendar by Commissioner Stattenfield.  
Recommended for Council Approval, subject to conditions.**

**8.D.** File: **PLN2008-07171**  
Location: 2155 El Camino Real, a 1,775 square foot tenant space (DBA: Mr. Chau's Restaurant) located in a shopping center on the north side of El Camino Real between Scott Boulevard and San Tomas Expressway (APN: 224-15-032).  
Property is Zoned CC (Community Commercial).  
Applicant: Patrick Chau,  
Joseph Padilla, Padilla/Associates  
Owner: Meacham  
Request: **Use permit** to allow the sales of Beer and Wine in existing restaurant  
Project Planner: Julie Moloney, Associate Planner  
Action: **Pulled from Consent Calendar by Commissioner Marine.  
Approved with amended conditions.**

\*\*\*\*\***End of Consent Calendar**\*\*\*\*\*

**9.** File: **PLN2008-06928**  
Location: 4600 Patrick Henry Drive, a 2.86 acre lot, located on the west side of Patrick Henry Drive, approximately 1,100 feet south of Democracy Way (APN 104-04-122). Property is zoned ML (Light Industrial).  
Applicant: Sim Architects, Inc. for Great Exchange Covenant Church  
Owner: 4600 Patrick Henry, LLC  
Request: **Certification of Mitigated Negative Declaration; and  
Use Permit** to allow the establishment of a church operation and conversion of an approximately 50,000 square foot existing building located in the Light Industrial zone to accommodate a membership of up to 1,600 persons (800 person maximum per service) as part of the phasing and long term growth plan.  
Project Planner: Judith Silva, Associate Planner  
Staff Recommendation: **Continued up to 90 days for Staff to investigate issues related to Mitigated Negative Declaration.**

## **10. OTHER BUSINESS**

### **A. Commission Procedures and Staff Communications**

*Public comment on these items may be limited to one minute, at discretion of the Chair*

- i. Announcements/Other Items
- ii. Report of the Director of Planning and Inspection
  - City Council Actions

- Commission/Board Liaison and Committee Report
  - Commission/Committee Assignments
  - Architectural Committee: Commissioners Stattenfield and Mayer (Barcells alternate)
  - Station Area Plan: Commissioner Champeny
  - General Plan sub-Committee: Chair Fitch and Commissioner O'Neill (Champeny alternate)
- iii. Commission Procedures
- Planning Procedures – Discussion took place regarding Planning Division's procedure for responding to emails, letters and phone calls from citizens.
  - Work plan item
  - Commissioner Travel and Training reports
- iv. Upcoming agenda items

**11. ADJOURNMENT – 11:20 p.m.**

Approved:

  
Gloria Sciara, AICP  
Development Review Officer

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